

BOARD OF APPEALS MINUTES

February 12, 2002

On Tuesday February 12, 2002 at 7:00 p.m. the Town of Clarence Board of Appeals heard the following requests for variances:

OLD BUSINESS
Ryan Homes

5785 FOREST CREEK DRIVE

APPEAL NO I
Curtis Mohr
Agricultural

Requests the Board of Appeals approve and grant a fifteen foot (15') variance creating a ten foot (10') rear yard setback for construction of a storage building at 8645 Roll Road. (Stockmohr Builders)

APPEAL NO I is in variance to Article V, section 30-27 C, size of yards.

APPEAL NO II
James & Dawn Kinney
Agricultural

Requests the Board of Appeals approve and grant a sixty foot (60') variance creating a one hundred ten foot (110') front lot line setback for construction of a new home at 5905 Strickler Road.

APPEAL NO II is in variance to Article V, section 30-27 B, size of yards.

APPEAL NO III
Patricia Burke
Residential A

Requests the Board of Appeals approve and grant a six foot (6') variance creating a thirty nine foot (39') front lot line setback for construction of an addition and porch at 9040 Orchid Ledge.

APPEAL NO III is in variance to Article II, section 30-12 A, size of yards.

APPEAL NO IV
Towne BMW
Commercial

Requests the Board of Appeals approve and grant two variances:

1. A forty nine square foot (49 sq. ft.) variance creating an eighty one square foot (81 sq. ft.) pylon sign located at 8215 Main Street. (Towne BMW)
2. An eight foot (8') height variance creating a twenty foot (20') height for a new pylon sign at 8215 Main Street.

APPEAL NO IV is in variance to L.L. 181 - 4B, Commercial sign district.

APPEAL NO V
Thomas Zehler
Agricultural

Requests the Board of Appeals approve and grant a variance for construction of an accessory structure (12' x 16' shed) prior to construction of primary residence at 8885 Sesh Road.

APPEAL NO V is in variance to Article II, section 30-9, Uses.

ATTENDING: John P. Brady
John Gatti
Ronald Newton
Raymond Skaine
Arthur Henning
Eric Heuser

INTERESTED PERSONS: D. Keith Beck
Mark Longo
William Schutt
Susan King
James Kinney
Patricia Burke
Frank Downing
Leonard Sparks
Tom Zehler

MINUTES Motion by John Gatti, seconded by Raymond Skaine to approve the minutes of the meeting held on January 8, 2002 as written.

ALL VOTING AYE. MOTION CARRIED.

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OLD BUSINESS Requests the Board of Appeals approve and grant a one foot (1') variance creating an eleven and a half foot (11'6") side yard setback for the construction of a new home at 5785 Forest Creek Drive.
Ryan Homes
Residential A

DISCUSSION: Chairman Brady read the action taken by the board at the meeting held on January 8, 2002. The action taken was to table this item until next month and have the builders come back with specific figures to substantiate a hardship. Keith Beck, the production manager for Ryan Homes spoke on behalf of Ryan Homes. Basically, this was a case of human error. Mr. Beck said that the cost of moving the porch foundation would be \$8,186.00. Bill Schutt said his firm did the stake out and the foundation location. This is when the mistake was discovered, and they applied for a variance. Somewhere between the stake out, the excavation, the footing, and the foundation walls, the house got cocked a little bit. One corner of the porch is

eight inches off. John Gatti said he can't believe in this day and age, with all the technology available someone can't measure before the foundation is poured. Mr. Beck said their site supervisor went through and checked the stakes to make sure the points of the house had not been disturbed, but he didn't check the off sets because none of the house stakes had been disturbed. John Gatti said if they would have checked that just before they poured, this could have been avoided. Did somebody see if the off set points were correct?

Or did they just take it for granted because they were still in the ground? Bill Schutt said the foundation contractor usually checks the foundation into itself, not necessarily taking the offsets. Again, I say it would be a lot cheaper to measure once more and make sure it is right, and avoid the cost of eight thousand dollars, and then knock it down and do it over. Mr. Gatti asked Mr. Beck what might have been the cause of this. Mr. Beck said it could have been a form shift, just because of the way they come together with pins and bolts that hold them together. It could also have been placement of the concrete.

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Raymond Skaine said two of the five areas that we look at in a area variance you qualify on. Number one, it could be corrected. Number two a self created hardship, somebody didn't come in and move those stakes. It is carelessness. Bill Schutt said Ryan runs a tight ship, this is the first house they have had to come in for. Jeff Wilson the building inspector for the Town of Clarence, said he would like to explain what happened here. Typically when a plot plan comes into our office, and it is close, which this one was - it was exactly twelve and a half feet - we tell them to pin them.

When you get your footers in pin them before you put the walls up. I don't know if they did that or not. When they brought in the spotted survey, I told the field guy to come to the Zoning office and apply for a variance, and to stop work on the house. He said he had already applied for the variance. Ron Newton asked Jeff Wilson if he felt they tried to shoe horn this house into the lot. Jeff said they didn't leave themselves a lot of room. Ron told Mr. Beck when you push it to the extremes you are going to get in trouble. Somebody in your outfit knows when it is tight, you check your tolerances to prevent being in this situation. Mr. Beck said they thought they could do it, but someone made a mistake - who made the mistake is the question.

Ryan has built over 150 homes in Clarence, this is the first variance for something already built. Ron Newton said he was not accusing them of doing this deliberately, but when you know the square footage, the size of the lot, and the parameters you have to work with, it would behoove you to take the time to make sure you stay in line. Ray Skaine asked Jeff about the stop work order - did he pursue it or was it just an advisory? Jeff said he told Ryan builders he wouldn't do any more inspections on this house until this matter was cleared up. He didn't officially put the stop work order up, but it appeared as if they had stopped work on the house. The house was framed at that point. Ray Skaine said "So you have already lost considerable money? Is the house sold? Yes it is. John Brady said going with their past history, the time and the money that has been lost,

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and the fact that it is eight inches ... I think you have suffered enough.

ACTION:

Motion by John Gatti, seconded by Arthur Henning to approve Appeal No I from the meeting held on January 8, 2002 as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO I
Curtis Mohr
Agricultural

Requests the Board of Appeals approve and grant a fifteen foot (15') variance creating a ten foot (10') rear yard setback for construction of a storage building at 8645 Roll Road. (Stockmohr Builders)

DISCUSSION:

Susan King represented Mr. Mohr as he was out of town for this meeting. Mr. Mohr would like this building for additional storage and housing his vehicles. One of the objectives of the building is so he will be able to put his vehicles inside and lock them up. He has two types of vehicles, the typical box van, and a semi truck for his deliveries. The problem with the site is, not only did they have to consider the wheel base of the vehicles that are coming on site, but also the traffic circulation. When the vehicles are coming in, whether they are going into the building to pick up or drop off materials, that traffic can still continue to circulate around through the site. The semi truck will basically come in the same entrance and then

back up along parallel to the building in the front. There will be a loading dock at grade so that semi can be unloaded, and traffic can still circulate through the site. In order to keep that traffic circulation, and meet the minimum radiuses, the building had to be shifted. That is why they are requesting the variance. The building will be of the same look as the previous building constructed by Fingerlakes Construction.

ACTION: Motion by Raymond Skaine, seconded by Ronald Newton to approve Appeal No I as written.

ALL VOTING AYE. MOTION CARRIED.

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APPEAL NO II
James & Dawn Kinney
Agricultural

Requests the Board of Appeals approve and grant a sixty foot (60') variance creating a one hundred ten foot (110') front lot line setback for construction of a new home at 5905 Strickler Road.

DISCUSSION: The Kinney's have young children and would like to have some reaction time in case the children wander too far toward the road.. Strickler Road is very busy. Michael McHugh is the owner of the land the Kinney's are purchasing. He was at the Board of Appeals and the Board asked him not to sell any property farther back than 400 feet. If the Board approves this variance he would be willing to set the line at 110 feet for all the remainder of the property he is selling on the Strickler frontage. Ron Newton suggested that the Kinney's plant a hedgerow to provide a degree of privacy for the Schlau residence to the north of them. The garage will be located on the south side of the property which will give Mrs Schlau added privacy.

ACTION: Motion by Ronald Newton, seconded Raymond Skaine to approve Appeal No II as written with the proviso that the Kinneys provide a buffer for Mrs Schlau, the neighbor to the north of them. Also, Mr. Mc Hugh will set the line at 110 feet for the remainder of his lots on Strickler Road.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO III
Patricia Burke
Residential A

Requests the Board of Appeals approve and grant a six foot (6') variance creating a thirty nine foot (39') front lot line setback for construction of an addition and porch at 9040 Orchid Ledge.

DISCUSSION:

Mrs. Burke said they would like to put an addition on to create an office with a handicapped entrance. The living room they presently have, is not large enough to accommodate a door. They thought the porch would look nice to tie it in. The neighbors were notified. They would like the handicapped entrance because Mr. Burke has three herniated discs, and they have a daughter who was recently diagnosed with MS. They want her to be able to visit them. Ron Newton didn't know if the addition was going to look right. Mr. Burke said there have been several additions that are similar to this one in the neighborhood. A good architect should be able to soften the look.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No III as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO IV
Towne BMW
Commercial

Requests the Board of Appeals approve and grant two variances:

1. A forty nine square foot (49 sq. ft.) variance creating an eighty one square foot (81 sq. ft) pylon sign located at 8215 Main Street. (Towne BMW)
2. An eight foot (8') height variance creating a twenty foot (20') height for a new pylon sign at 8215 Main Street.

DISCUSSION:

Frank Downing Jr said that this sign came from their former location in Orchard Park BMW changed their sign requirements, and they added a new franchise called the MINI. They need totally new signage for the new franchise and for the BMW franchise. They need the size to be competitive with the Mercedes dealer and Auto Place. It is actually smaller than some of the other organizations in the area. Great Lakes has a sign 17 feet high, and over 100 square feet in size. Ray Skaine questioned the square foot size of the three signs, he would like the sign maker to

provide more information to the board. Ray said he can't vote on this not knowing what he is actually voting on dimension wise. Leonard Sparks said he could have the figures from United Sign by 9:30 a.m. and bring them into the Planning office. The board could do a telephone poll to expedite an answer.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to table this item until the information has been received.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO V
Thomas Zehler
Agricultural

Requests the Board of Appeals approve and grant a variance for construction of an accessory structure (12' x 16') shed prior to construction of the primary residence at 8885 Sesh Road.

DISCUSSION:

Mr. Zehler said his family will be moving out of their home in April, and moving in with family until their home is completed. They looked into storage areas, and thought it was too costly. They can store a lot of their belongings in the shed, and also equipment for security reasons. The shed will be behind the new home about 20 to 30 feet, and it will be permanent.

ACTION:

Motion by John Gatti, seconded by Ronald Newton to approve Appeal No V as written.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 8:00 p.m.
John P. Brady, Chairman